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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,190	02/07/2002	Rene Amherd	FELD-129XX	3763

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BOSTON, MA 02109

EXAMINER

KRECK, JOHN J

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 05/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/072,190

Applicant(s)

AMHERD, RENE

Examiner

John Kreck

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

The amendment dated 2/7/02 has been entered.

Information Disclosure Statement

1. The information disclosure statement filed 6/11/02 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 4-11, and 15-19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ikeda (U.S. Patent number 4,594,759).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 12-14, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikeda in view of Aulson, et al. (U.S. Patent number 5,267,382).

Ikeda fails to show the collecting chamber sealed in an air-permeable manner.

Aulson shows a similar device which includes a circumferential skirt brush for sealing the collecting chamber in an air-permeable manner. It is apparent that the brush is advantageous because it allows for a flexible seal.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Ikeda device to have a circumferential skirt brush thus

Art Unit: 3673

also having the collecting chamber sealed in an air-permeable manner, as shown by Aulson, and as called for in claims 12-14, and 20, in order to allow for a flexible seal.

With regards to independent claim 1:

Ikeda teaches the method including the hammering by way of several pneumatically actuated striking tools; but fails to explicitly teach the radioactive surfaces, the air-permeable sealing, and the volume of air suctioned being greater than the volume of air used for actuation.

It is well known to decontaminate radioactive surfaces using grinding machines (as evidenced by page 2 of applicant's specification).

Aulson shows a similar device which includes a circumferential skirt brush for sealing the collecting chamber in an air-permeable manner. It is apparent that the brush is advantageous because it allows for a flexible seal.

With regards to the volume of air, it is apparent that one of ordinary skill in the art would adjust the operation of the vacuum to effectively remove all of the material. This is considered to be a matter of engineering design.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have practiced the Ikeda process on a radioactive surface, in order to clean such a surface; to have adjusted the suction so that the volume of air would be greater than the volume of air used for actuation, in order to effectively remove the broken material; and to have included a circumferential skirt brush for sealing the collecting

Art Unit: 3673

chamber in an air-permeable manner, in order to allow for a flexible seal as taught by Aulson, and as called for in claim 1.

With regards to claim 2, the Ikeda reference shows the expansion space.

With regards to claim 3; it is apparent that the Ikeda process would result in particles in the claimed size range.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Trovato, et al. (U.S. Patent number 4,940,289); Vassalotti, et al. (U.S. Patent number 4,436,694); and Hamasaki, et al. (U.S. Patent number 4,568,814) teach similar apparatus and methods.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is (703)308-2725. The examiner can normally be reached on M-F 6:00 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703)308-2978. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3597 for regular communications and (703)305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-4177.



John Kreck
Examiner
Art Unit 3673

JJK
May 12, 2003